IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:8-11-2006

CORAM

THE HONOURABLE MR.JUSTICE S.ASHOK KUMAR
C.R.P.PD.No.1490 of 2006

K.Balakrishnan ... Petitioner(Defendant)

Versus

Parsee Zorastrian Anjuman
Rep. by its Trustees
1)H.E.Eduljee
2)F.B.Chinoy
3)E.B.Sethna
4)R.A.Metha
5)J.D.Billimoria ... Respondents (Plaintiffs)

Civil Revision Petition filed under Article 227 of the Constitution of India against the Order and decreetal order dated 29.06.2006 made in I.A.No.454 of 2005 in O.S.No.68 of 2004 on the file of the Subordinate Court at Ooty.

For Petitioner : Mr.Srinath Sridevan

ORDER

Aggrieved over the Order and decreetal order dated 29.06.2006 made in I.A.No.454 of 2005 in O.S.No.68 of 2004 on the file of the Subordinate Court, Ooty, this civil revision petition is filed.

2.The brief facts of the case are as follows:

The petitioner is the defendant in the said suit. The Petitioner filed I.A.No.454 of 2005 to decide the jurisdiction of the court as preliminary issue on the ground that the property, the subject matter of the suit, belongs to Public Trust and therefore under Section 58 of the Tamil Nadu Public Trusts (Regulation of Admn. of Agricultural land) bars the Jurisdiction of Civil Courts to decide or deal with any question with regard to such lands. After contest the learned Subordinate Judge,Nilgiris at Uthagamandalam, came to the conclusion that the issue can be decided during trial as one of the issue and he has

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relied on Section 62 of the Tamil Nadu Public Trusts (Regulation of Admn. of Agricultural land) Act.

3.Aggrieved over the said order this civil revision petition is filed.

4.Mr.Srinath Sridevan, the learned counsel appearing for the revision petitioner would contend that Section 58 of the Act is the relevant section which specifically bars the jurisdiction of any Civil Court in cases of lease or rent for the lands belonging to the Public Trust.

5.Inspite of notice and repeated opportunities were given no representation for the respondent either in person or through his counsel.

6.A perusal of Section 58 Tamil Nadu Public Trusts (Regulation of Admn. of Agricultural land) Act would show that no civil court, shall have jurisdiction to decide or deal with any question which is by or under this Act required to be decided or dealt with by the authorised officer, the Registrar, the Rent Court, the Rent Tribunal or other authority. Therefore Section 58 of the Act squarely applies to the facts of this case. On the other hand Section 62 of the Act deals with the repealing of Tamil Nadu Cultivating Tenants Protection Act.

7.In view of the above this civil revision is allowed. The learned Subordinate Judge,Nilgiris, Uthagamandalam is directed to decide the jurisdiction of the court to entertain the suit as preliminary issue and continue the further proceedings. No costs. Consequently the connected M.P.No.1 is closed.

vk

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To:

The Subordinate Judge,
Nilgiris, Uthagamandalam.

+ one cc to Mr. Srinath Sridevan, Advocate sr no. 53811

jrg(co)
nm(15.12.2006)

C.R.P.PD.No.1490 of 2006

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